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| 10/017,961 | 12/07/2001 | Geza Nemeth | 0115-001 | 7474 |

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HULSEY & CALKINS, L.L.P.
8911 N. CAPITAL OF TEXAS HWY.
SUITE 3200
AUSTIN, TX 78759

EXAMINER

MOSKOWITZ, NELSON

ART UNIT PAPER NUMBER

3663

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,961

Applicant(s)

NEMETH, GEZA

Examiner

Nelson Moskowitz

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 and 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Application 10/017,961

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 1, 15, 19, 20 and 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Orban et al. See, inter alia, columns 1-4 and figures 1-2.

Please note that the specific reference constituents cited herein are done so for the convenience of the Applicant and are in no way intended to be limiting. The reference should be considered in its entirety.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 7, 9, 10, 12, 14-16 and 22-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fort. See, inter alia, figures 1 and 2 and columns 5-8 and 18-19.

5. Claim 15 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Donoho et al. See, inter alia, figures 2-5 and columns 6-8.

6. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orban et al with Ward.

In determining obviousness, the following factual determinations are made:

- a. first, the scope and content of the prior art;
- b. second, the difference between the prior art and the pending claims.
- c. third, the level of skill of a person ordinary skill in this art; and
- d. fourth, whether other objective evidence may be present, which indicates

obviousness or nonobviousness. See, e.g., *In re Dembiczak*, 175 F.3d 994, 998, 50 USPQ2d 1614, 1616 (Fed. Cir. 1999) (citing *Graham v. John Deere Co.*, 282 US 1, 17-18, USPQ 456, 466-67 (1966)).

Objective evidence includes long felt but unmet need for the claimed invention, failure of others to solve the problem addressed by the claimed invention, and not other factors. See, e.g., *Simmons Fastener Corp. v. Illinois Tool Works, Inc.*, 739 Fed. 1573, 1574-76, 22 USPQ 744, 745-47 (Fed. Cir. 1984).

a) In examining the scope and content of Orban et al it is found that placement of an analog output sensor, with a printed circuit board, analog to digital converter, and a processor, in a single housing are disclosed. The advantages of improved S/N, reduction in the number of sensor units required for prospecting, and significant reduction in size and weight.

b) Ward et al teaches that seismic prospecting systems include control circuits, amplifiers, and power management, in order to improve the data collection process.

Third, under *Deere* the level of ordinary skill in this art may be determined by the analysis of the Court as set forth in *Environmental Design Ltd. v. Union Oil Co.* 713 F.3d 693,

218 USPQ 865-69 (Fed. Cir. 1983) cert. denied, 464 U.S. (1984), where the court listed these factors relevant to the determination of the level of ordinary skill: type of problems encountered in the art, prior art solutions, rapidity of innovations, sophistication of technology, and educational level of the active worker in the field.

The types of problems encountered in the art involve seismic prospecting with seismometers to provide accurate and reliable data from the processed signals.

Innovation in this field has been very fast as can be seen from virtual birth of this field in the 1950s to its present highly complex and sophisticated status.

Prior art solutions include sensors with A/D and signal processors in a single housing. Skilled artisans generally have a college level education and over three (3) years of experience, as can be seen from published articles in the major journals in this field.

To date, no secondary considerations (objective evidence) have been presented.

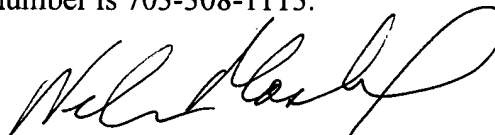
Therefore, the use of such modern processing as taught by Ward, with single enclosures for the transducer, A/D converter, and control and processing circuits, would have been obvious to one skilled in the art for the aforesaid reasons of better quality signals, lower price and ease of placement.

7. The references cited by Applicant (PTO-1449) have been considered and found to be fairly representative of the state of this art.

8. References A-C (PTO-892) are cited to show the common use of A/D converters in seismic wave detectors.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson Moskowitz whose telephone number is 703-306-4165. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 4:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Thomas Black, can be reached on (703) 306-4171. The before final fax phone number for the organization where this application or proceeding is assigned is 703-872-9326. The after final fax phone number for the organization where this application or proceeding is assigned is 703-872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'Nelson Moskowitz', written in a cursive style.

NELSON MOSKOWITZ
PRIMARY EXAMINER